

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

GENE EDWARD SCOTT, II

PLAINTIFF

V.

4:19CV00030 JM

UNITED STATES GOVERNMENT

DEFENDANT

ORDER

Pending before this Court is the Plaintiff's Motion to Proceed *In Forma Pauperis* and Complaint. The Eighth Circuit has instructed that the decision of whether a complaint is frivolous or malicious precedes the decision of whether to grant *in forma pauperis* status and whether to order service of process. *See Carney v. Houston* 33 F.3d 893, 895 (8th Cir. 1994) (quoting *Gentile v. Missouri Dept. Of Corrections*, 986 F.2d 214 (8th Cir. 1993)). "If the complaint is frivolous or malicious, the district court should dismiss it out of hand." *Id.* A complaint is frivolous where it lacks an arguable basis in either law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325-27 (1989).

In this case, Plaintiff, a resident of Arizona, seeks \$375,000,000 to build a "college/university/residential hall with medical facility in Holly Grove, Arkansas . . . because of the need for commerce and population in Holly Grove" and his own need for security and livelihood. He attempts to couch his request for relief as a claim under the First and the Fourteenth Amendments to the United States Constitution, citing the right "to grieve" and the right to equal protection under the laws. Plaintiff claims that he lives in an "[im]poverished setting" and that this is a violation of his rights under the cited constitutional amendments. However, Plaintiff has wholly failed to state a claim that has a basis in law or in fact. The Court finds that allowing Plaintiff an opportunity to amend his complaint would be futile.

Plaintiff's Motion to Proceed *in forma pauperis* (ECF No. 1) is DENIED. Plaintiff's Complaint is dismissed without prejudice. The Clerk is directed to close the case.

IT SO ORDERED this 16th day of January, 2019.


UNITED STATES DISTRICT JUDGE